

Department of the Air Force, DoD

§ 842.42

§ 842.38 Delegations of authority.

(a) *Settlement authority*: (1) These individuals have delegated authority to settle, compromise, suspend, or terminate action on claims for \$20,000 or less and to accept full payment on any claim:

- (i) The Judge Advocate General.
- (ii) The Deputy Judge Advocate General.
- (iii) The Director of Civil Law.
- (iv) Chief, Deputy Chief, and Branch Chiefs, Claims and Tort Litigation Staff.
- (v) The SJAs of HQ PACAF, HQ USAFE, and HQ 9AF (for HQ CENTCOM).

(2) These individuals have delegated authority to settle, compromise, suspend, or terminate action on claims for \$15,000 or less and to accept full payment on any claim:

- (i) SJAs of GCMs in PACAF and USAFE.
- (ii) SJAs of single base GCMs.
- (3) SJAs of each Air Force base, station, or fixed installation have delegated authority to settle, compromise, suspend, or terminate action on claims for \$10,000 or less and to accept full payment on any claim.

(b) *Redelegation of authority*. An individual with settlement authority may redelegate this authority, in writing, to a subordinate judge advocate or civilian attorney.

(c) *Authority to reduce, withdraw, or restore settlement authority*. Any superior settlement authority may reduce, withdraw, or restore settlement authority.

§ 842.39 Statute of limitations.

(a) International commercial air shipments. The government must file suit within 2 years after the delivery date. The period for notifying these carriers of loss or damage is 3 days for luggage, and 7 days for other goods. Setoff is not possible in these cases. Uncollectible claims are sent to HQ USAF/JACC within 6 months from the date of delivery.

(b) *All other CR claims*. The government must file suit within 6 years after the cause of action accrues. It accrues when a responsible US official, service member, or employee knew or reasonably should have known the material

facts that caused the claimed loss. The requirement to file a claim within 9 months under commercial bills of lading does not apply to GBLs.

Subpart F—Military Claims Act (10 U.S.C. 2733)

§ 842.40 Scope of this subpart.

This subpart explains how to settle claims made against the United States for property damage, personal injury, or death caused by military personnel or civilian employees of the Air Force acting in the scope of their employment or otherwise incident to the Air Force's noncombat activities.

§ 842.41 Definitions.

(a) *Appeal*. A request by the claimant or claimant's authorized agent to re-evaluate the final decision. A request for reconsideration and an appeal are the same for the purposes of this subpart.

(b) *Final denial*. A letter mailed from the settlement authority to the claimant or authorized agent advising the claimant that the Air Force denies the claim.

(c) *Noncombat activity*. Activity, other than combat, war or armed conflict, that is particularly military in character and has little parallel in the civilian community.

§ 842.42 Delegations of authority.

(a) *Settlement authority*: (1) The Secretary of the Air Force has delegated authority to:

- (i) Settle claims for \$100,000 or less.
- (ii) Settle claims for more than \$100,000, paying the first \$100,000 and reporting the excess to the General Accounting Office for payment.
- (iii) Deny a claim in any amount.
- (2) The Judge Advocate General has delegated authority to settle claims for \$100,000 or less and deny claims in any amount.

(3) The following individuals have delegated authority to settle claims for \$25,000 or less and deny claims in any amount:

- (i) The Deputy Judge Advocate General.
- (ii) The Director of Civil Law.

§ 842.43

(iii) The Chief, Deputy Chief and Branch Chiefs, Claims and Tort Litigation Staff.

(4) The SJA of 9AF for CENTCOM, and the SJAs of PACAF and USAFE have delegated authority to settle claims payable or deny claims filed for \$25,000 or less.

(5) SJAs of single base GCMs, and GCMs in PACAF and USAFE, and each Air Force base, station, or fixed installation have delegated authority to settle claims payable, or deny claims filed for \$15,000 or less.

(b) *Redelegation of authority.* A settlement authority may redelegate his or her authority for claims not exceeding \$25,000, to a subordinate judge advocate or civilian attorney in writing.

(c) *Appellate authority.* Upon appeal, a settlement authority has the same authority specified above. However, no appellate authority below the Office of the Secretary of the Air Force may deny an appeal of a claim it had previously denied.

(d) *Authority to reduce, withdraw, and restore settlement authority.* Any superior settlement authority may reduce, withdraw, or restore delegated authority.

(e) *Settlement negotiations.* A settlement authority may settle a claim in any sum within its delegated settlement authority, regardless of the amount claimed. Send uncompromised claims in excess of the delegated authority to the level with settlement authority. Unsuccessful negotiations at one level do not bind higher authority.

(f) *Special exceptions.* Do not settle claims for the following without HQ USAF/JACC approval:

(1) Legal malpractice.

(2) On the job personal injury or death of an employee of a government contractor or subcontractor.

(3) Assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution committed by an investigative or law enforcement officer.

(4) On-base animal bite cases.

(5) Personal injury from asbestos or radon.

(6) Claims based upon an act or omission of an employee of the government,

32 CFR Ch. VII (7-1-01 Edition)

exercising due care, in the execution of a statute or regulation.

(7) Claims based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the government.

(8) Claims for damage to property of a state, commonwealth, territory, or the District of Columbia caused by ANG personnel engaged in training or duty under 32 U.S.C. 316, 502, 503, 504, or 505 who are assigned to a unit maintained by that state, commonwealth, territory or the District of Columbia.

(9) Claims not payable because payment is not in the best interests of the United States, is contrary to public policy, or is otherwise contrary to the basic intent of the MCA.

(10) Claims presented by a national, or a corporation controlled by a national, of a country at war or engaged in armed conflict with the United States, or any country allied with such enemy country.

(11) Medical malpractice.

[55 FR 2809, Jan. 29, 1990, as amended at 56 FR 1574, Jan. 16, 1991]

§ 842.43 Filing a claim.

(a) *How and when filed.* A claim is filed when a federal military agency receives from a claimant or duly authorized agent a properly completed Standard Form 95 or other signed and written demand for money damages in a sum certain. A claim belonging to another agency is promptly transferred to that agency.

(b) *Amending a claim.* A claimant may amend a claim at any time prior to final action. To amend a claim, the claimant or his or her authorized agent must submit a written, signed demand.

§ 842.44 Advance payments.

Subpart Q sets forth procedures for advance payments.

§ 842.45 Statute of limitations.

(a) A claim must be filed in writing within 2 years after it accrues. It accrues when the claimant discovers or reasonably should have discovered the existence of the act that resulted in the claimed loss. The same rules governing accrual pursuant to the Federal